

840 CMR 10.00: STANDARD RULES FOR DISABILITY RETIREMENT

10.10: Examination by Medical Panel

(1) Notice. In proceedings for disability retirement the Commission shall give all parties at least 14 days notice of the medical panel examination. An applicant may waive his or her right to 14 days notice by filing a written waiver with the Commission. Examinations shall be held at a reasonably convenient time and place for all parties.

(2) Examination. A physical examination and/or psychiatric evaluation of the member shall be conducted by the regional medical panel. If fewer than three physicians are present at a regional medical panel examination, and the member consents in writing, the physician or physicians present shall conduct the examination and any physicians not present shall conduct a separate examination.

(3) Medical Tests. The medical panel may suggest any "non-invasive" medical test which the panel considers necessary to render an opinion of the member's medical condition. The Commission shall assume the cost of any non-invasive test suggested by the medical panel up to an amount that the Commission shall determine annually. This annual determination will be communicated to all retirement boards during the month of January. No test the cost of which exceeds the annual amount determined by the Commission shall be ordered or required by the medical panel without the advance approval of the Commission.

(4) Representation. At the election of the member and employer respectively, the member's physician and employer's physician, may be present and may answer questions from the panel during the decision making process of the panel. In the case of separate examinations, the member's physician and the employer's physician shall have the opportunity to attend each examination. Either physician may disagree with the findings of the panel or, in the case of separate examinations, with any of the three physicians and may so indicate by signing the panel certificate in the space provided and by filing a written statement with the Commission within ten days following the examination. Neither physician shall otherwise participate in the decision making process of the panel.

(5) Rescheduling of Examination. If a member is unable to attend a scheduled medical panel examination, or in the case of single exams any one of the three separate examinations, the member shall notify the Commission and may request that the examination be rescheduled. The Commission will ordinarily grant requests for rescheduling only for extenuating circumstances such as death in the family or hospitalization or serious illness of the member, provided that appropriate documentation of such is provided to the Commission. If a request for rescheduling is denied by the Commission, and the applicant fails to appear at the originally scheduled examination, the retirement board may deny the application and notice of the decision and right to appeal shall be sent to all parties as provided by 840 CMR 10.13(3).

(6) Failure to Appear. If a member fails to appear at a scheduled examination without having been granted a request for rescheduling by the Commission, the member shall reimburse the Commission for the costs of that examination before a new examination shall be scheduled. If the application is for involuntary retirement under the provisions of M.G.L. c. 32, § 16, the employer shall be responsible for reimbursement to the Commission if the employee fails to appear at a scheduled examination. Reimbursement may be waived if the Commission finds that there was just cause for the member's failure to appear.

(7) Confidentiality. Since the principal purpose of the examination is to discuss and evaluate the physical condition or mental health of the member, attendance at the examination shall be limited to the member and the medical panel physician(s), the employee's physician and the employer's physician. The member's attorney and the employer's attorney may attend the examination. The member may permit the presence of other individuals, provided that their presence will not disrupt the examination. No document received during the examination shall be made available to the public except as may be required by other laws and regulations applicable to such records.

(8) Documents Submitted to the Medical Panel. Any documents that are submitted to the medical panel by anyone other than the retirement board will be transmitted to the Commission by the panel. The Commission will provide copies of the documents to the retirement board.

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(9) Certification of Panel Findings. The medical panel, or in the case of separate examinations each medical panel physician, shall report their findings and recommendations to the retirement board through the Commission on certificates supplied by the Commission within 60 days after completing their examinations. The panel or physician, as the case may be, shall forward the report to the Commission for approval for payment of medical panel services. Within five days of receiving a properly completed medical panel or physician report, the Commission shall forward the report to the retirement board. The medical panel physicians shall certify whether the member is unable to perform the essential duties of his job, whether the inability is likely to be permanent and, if the application is for accidental disability, whether the disability is such as might be the natural and proximate result of the accident or hazard undergone on account of which the retirement is claimed. The physician designated by the Commission as Medical Panel Coordinator or, in the case of separate examinations, each medical panel physician, shall also file a narrative statement describing in detail the findings and recommendations of the report. The names and addresses of all persons attending the medical panel examination, a listing of all documents presented to the medical panel at the examination and all medical tests and/or X-Rays ordered by the medical panel shall be listed in the space provided on the Medical Panel Certificate.